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NEW RULES FOR

Apartments *in* HOUSES

MAY 1996



The Land Use Planning and
Protection Act - Bill 20

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About the Land Use Planning and Protection Act (Bill 20)

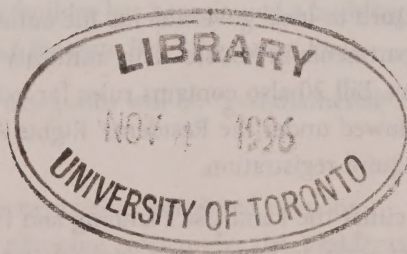
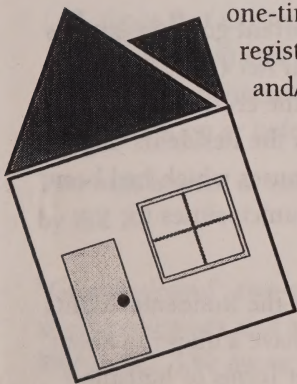


On May 22, 1996, the Land Use Planning and Protection Act (Bill 20) became law. This Act includes new rules for apartments in houses. Municipalities will again be able to use their zoning by-laws to decide where new second units in houses are to be allowed. Municipalities will also be able to decide the types of houses in which second units are to be allowed and what planning standards (e.g. parking and unit size requirements) will apply to them.

Existing apartments in houses continue to be governed by the regulations under the Residents' Rights Act (Bill 120) of 1994. Most existing two-unit houses will continue to be permitted under municipal zoning. However, they must meet Fire Code requirements by July 14, 1996 and must be able to meet the planning standards under the Residents' Rights Act.

**Operating smoke alarms have been mandatory
in both units of a two-unit house since August 13, 1994.**

To help enforce safety standards such as the Fire Code, municipalities now have the authority to set up a registration system for houses with two units. Owners may be required to register their two-unit house and they may be required to get the unit inspected. Municipalities may charge a one-time registration fee. The municipality may decide to register existing units, and/or new units.



Background:

Called “basement apartments”, “accessory apartments” or “in-law suites”, apartments in houses are self-contained apartments that homeowners sometimes create within their house, making it a house with two residential units. They can be created through sub-dividing or adding on to an existing house, or added to a new house at the time of construction.

In 1994, the Residents’ Rights Act allowed self-contained, second units in houses, provided that building, fire and applicable planning standards were met. The law applied to detached, semi-detached, and row houses located in zones allowing residential use and connected to municipal sanitary sewers.

The Ontario Fire Code was also changed in 1994 to include safety requirements for apartments in houses. Homeowners were given a two-year compliance period to upgrade their houses. The deadline for compliance is July 14, 1996. Owners may apply to the fire department for an extension of time for up to two years beyond that date. The requirements cover matters such as adequate fire exits, fire separations and an electrical inspection done by Ontario Hydro. Smoke alarms have been mandatory in apartments in houses since August 13, 1994.

As part of its municipal empowerment strategy, the current government has decided through the Land Use Planning and Protection Act (Bill 20), to return to local governments the authority to regulate the creation of new apartments in houses. This authority was lost through the Residents’ Rights Act. Bill 20 also contains rules for existing two-unit houses which had been allowed under the Residents’ Rights Act and allows municipalities to require registration.

Neither the Land Use Planning and Protection Act nor the Residents’ Rights Act apply to houses with more than two units. If you have a question about a house containing more than two units or about other forms of housing, contact your municipality.

New apartments in houses

The Land Use Planning and Protection Act restores municipal authority to decide where new apartments in houses can go and what standards will apply. Homeowners may not be able to create new second units because this may not be allowed under the municipal zoning for the area. Where new two-unit houses are allowed, they will have to meet municipal standards for matters such as parking and unit size. These rules may differ from municipality to municipality.

If you are thinking about putting a new apartment in your house, you will need to talk to your municipality to see if this is permitted and to find out about the necessary permits required.

“Self-contained” means that each unit has its own kitchen and bath and is fully separated from the other unit. There are **two-unit houses** where the owner lives in one and rents out the other. In other cases, both units are rented.

Existing apartments in houses

The Land Use Planning and Protection Act (Bill 20) will continue to permit houses with two units that fall into these categories:

1. those that existed on November 16, 1995 (*the date Bill 20 was introduced*) and which were covered by the Residents' Rights Act.
2. those for which the homeowner or builder has been issued a building permit on or before May 22, 1996 (*the date Bill 20 became law*).

Two-unit houses in either of the above categories will be “grandfathered” by Bill 20.

“Grandfathered” two-unit houses are recognized as permitted uses for zoning purposes and are subject to the planning rules under the Residents' Rights Act. The owners of grandfathered units can continue to rent them out.

Grandfathering means that renovations or upgrades to a two-unit house can be done legally with a building permit.

All two-unit houses must meet the requirements in the Fire Code by July 14, 1996. Always check with your municipality to see whether a permit is required before beginning any renovation or upgrading project.

The tenants who live in these units are still protected by tenant protection legislation such as the Landlord and Tenant Act and the Rent Control Act. Tenants have the right to complain about unsafe conditions and landlords have an obligation to perform regular maintenance and keep the units in good repair.

What standards apply to houses with second units?

In general, new apartments must comply with the Ontario Building Code, and existing apartments must comply with the Ontario Fire Code. All new two-unit houses must comply with certain property and municipal zoning (planning) standards.

About the standards:

Ontario Building Code (OBC)

The OBC sets standards that must be met when a two-unit house is created, either through construction, renovation or when an existing two-unit house is upgraded.

Homeowners must obtain a building permit before starting any construction or renovation work. A building permit will only be issued if the plans meet requirements in the OBC and if the use is allowed (either through municipal zoning or grandfathering). An inspector from your local building department will inspect the house to make sure the work done is in compliance with the plans.

Among other things, the OBC includes requirements on:

- ceiling height
- ventilation
- natural lighting
- electrical safety
- fire exits
- fire alarm systems
- fire separations (this refers to the materials that the walls, ceilings and floors between the two units are made with and how long it would take for fire to burn through them)

There are different standards in the OBC to create a two-unit house depending on the age of the house. More flexible standards are available when a second unit is added to a house that is more than five years old.

Sometimes a second unit can be created without renovation. In these cases, a homeowner can apply for a change of use permit from the local building department. This permit will only be issued if no renovations work is needed to meet OBC requirements for a two-unit house.

Ontario Fire Code

Requirements in the Fire Code apply to existing houses with two units. If you have an apartment in your house, you have a legal responsibility to meet these requirements by July 14, 1996 unless an extension of time has been approved by the fire department. Fire Code requirements apply equally to both units in the house, whether or not the homeowner lives in one of them. Violating the Fire Code can result in fines of up to \$25,000 or one year in jail.

Fire Code requirements for apartments in houses cover:

- smoke alarms (mandatory since August 1994)
- fire exits
- electrical safety
- fire separations

The Fire Code **already** requires that homeowners have smoke alarms installed in both units. These smoke alarms must be maintained in operating condition, so they should be tested regularly.

Homeowners of existing two-unit houses must make sure the wiring in their house is safe. These owners are responsible for having a general electrical inspection conducted by one of Ontario Hydro's electrical inspectors. There is a fee involved which the homeowner is responsible for paying. Inform your tenants if you have already completed a general electrical inspection for your home. Once this inspection has been conducted, Ontario Hydro will send a letter outlining any hazards found and what work must be done. All electrical hazards identified during the inspection must be repaired immediately.

Homeowners have until July 14, 1996 to have their electrical system inspected by Ontario Hydro, and to comply with other Fire Code requirements such as exits and separations. Homeowners may apply to the fire department for an extension of time for up to two years beyond that date.

Property standards

All two-unit houses are subject to municipal property standards by-laws, which may contain requirements on:

- property maintenance
- room temperature
- dampness
- over-crowding
- ventilation, ceiling height and natural lighting (*for existing buildings only*)

Some municipalities do not have property standards by-laws. In these cases, maintenance standards set by the provincial government apply to rental units.

Zoning standards

Houses with two units must meet municipal zoning standards. However, in the case of grandfathered two-unit houses, zoning standards are still limited by planning rules under the Residents' Rights Act. For example, municipalities cannot:

- apply a building height requirement to houses with two units which is different than the standard for a house with one unit
- require that houses with two units have more than two on-site parking spaces.

The planning rules under the Residents' Rights Act only apply to grandfathered units created before May 22, 1996. This means that municipalities will have more flexibility to set zoning standards for houses containing new second units. Talk to your municipality to find out what zoning standards apply in your area.

How do I know if my apartment "meets standards"?

A qualified architect, engineer or home inspector can advise you on whether your unit meets fire safety requirements. Many municipalities have fire departments that can conduct a fire inspection of your property.

For detailed, technical information about fire safety and building requirements, you may purchase a copy of the Fire Code regulation for apartments in houses (Retrofit Section 9.8) or the Ontario Building Code from Publications Ontario, the government bookstore.

Your local fire or building department or the regional Office of the Fire Marshal can also provide you with information.

Those provisions of Bill 120 related to powers of entry under the Planning Act, garden suites, single housekeeping units, and care homes are not affected by the legislation.

For further information...

If you have questions about..

Please contact.... *(numbers not listed here can be found in the blue pages of your telephone book)*

The Ministry of Municipal Affairs and Housing

Ministry Customer Assistance Line
(416) 585-7041

Land Use Planning and Protection Act (Bill 20)

Housing Development and Buildings Branch of the Ministry of Municipal Affairs and Housing (416) 585-6515

Building Code and how to obtain a permit

Municipal building department

Fire Code

Local fire department or the regional Office of the Fire Marshal - listed under the Ministry of the Solicitor General and Correctional Services

Ontario Hydro and how to get an electrical inspection

Ontario Hydro Electrical Inspections Processing Centre, (check the white pages for the one nearest you)

Maintenance Standards

Area Rent Control Office of the Ministry of Municipal Affairs and Housing

Municipal Property Standards

Municipal property standards or by-law enforcement department

Tenant Protection:

- Landlord and Tenant Act
- Rent Control Act

Area Rent Control Office of the Ministry of Municipal Affairs and Housing

How to obtain copies of the Fire Code, Building Code, information brochures, Acts, Regulations and other government publications

Publications Ontario 1-800-668-9938
or (416) 326-5300 Fax (416) 326-5317

